IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 5787 of 2005

Between:

Ch. Jeevanand S/o. Late Ch. Rama Swamy, Grudging Corporation of India, Visakhapatnam, R/o. Visakhapatnam.

..... PETITIONER

AND

1. The Union of India, Rep. by its Secretary, Ministry of Shipping, Road Transport and Highways, New Delhi.

2. The Directorate General of Shipping, Government of India, Ministry of Shipping, Road Transport and Highways, Jahaj Bhavan, W.H. Marg, Mumbai - 400 001.

3. The Shipping Master, Government of India, Ministry of Shipping, Shipping Office, Mariane House, Hasing, Kolkata-700 022.

4. The Dredging Corporation of India Ltd., Rep. by its Chairman & Managing Director, Dredge House Port Area, Visakhapatnam-530 035.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus. a) Declaring the impugned order No.12(10) CR/98 dt. 3-3-2005 of the 2nd Respondent as passed without jurisdiction and violative of the rights guaranteed to the petitioner under Articles 14,16 & 21 of the Constitution of India. b) Consequently direct the 3rd Respondent to issue the Continuous Discharge Certificate Cum Seafarers Identity Document to the petitioner forthwith.

Counsel for the Petitioner: MR.P.S.RAJASEKHAR

Counsel for the Respondent Nos.1 to 3: MR.S.S.VARMA (ADDL CGSC)
Counsel for the Respondent No.4: MR.D.V.SITHARAM MURTHY

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the communication, dated 03.03.2005, issued by the second respondent.

According to the petitioner, he made an application for issuance of Continuous Discharge Certificate-cum-Seafarer's Identity Document (CDC) on 20.02.2001 to the third respondent through the fourth respondent. However, instead of considering the matter and passing appropriate orders directing the petitioner to comply with the deficiencies, if any, the impugned order was passed by the second respondent stating that on the one hand the application was incomplete and on the other hand he is not the competent authority under Merchant Shipping Act, 1958 to issue CDC. Therefore, the petitioner has come up with the present writ petition.

The learned counsel for the petitioner relied upon a communication dated 16.03.2001 sent by the fourth respondent to the third respondent forwarding relevant documents for issuance of CDC with reference to nine employees, where the name of the petitioner is shown at Serial No.5. It is also contended that even though the petitioner's application along with related documents are sent to the third respondent, the third respondent failed to pass appropriate orders issuing CDC. Therefore, he sought for appropriate direction.

A counter is filed on behalf of the respondents disputing and denying the claim made by the petitioner.

However, at the time of hearing, the learned Standing Counsel appearing for the respondents 1 to 3 could not dispute the papers filed before this Court by the petitioner showing the communication dated 16.03.2001 forwarded by the fourth respondent to the third respondent for issuance of CDC. Therefore, prima facie, the communication dated 03.03.2005 issued by the second respondent is clearly illegal and without jurisdiction.

In view of the admitted fact that the application of the petitioner was forwarded to the third respondent by the fourth respondent along with the applications of other employees, who were in fact issued CDCs, the non-consideration and non-issuance of CDC in favour of the petitioner is not proper and just.

Under the above circumstances, the impugned order of the second respondent dated 03.03.2005 is set aside and the third respondent is directed to consider the petitioner's application along with the documents sent by the fourth respondent vide proceedings dated 16.03.2001 in accordance with the Rules existing as on the date of the application and pass appropriate orders issuing CDC in favour of the petitioner. If there are any omissions or deficiencies in the application forwarded by the fourth respondent, it is open to the third respondent to direct the fourth respondent or the petitioner to comply with the same and thereafter pass appropriate orders. The said exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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12.07.2005

VGB

To

1. The Secretary, Union of India, Ministry of Shipping, Road Transport and Highways, New Delhi.

2. The Directorate General of Shipping, Government of India, Ministry of Shipping, Road Transport and Highways, Jahaj Bhavan, W.H. Marg, Mumbai - 400 001.

3. The Shipping Master, Government of India, Ministry of Shipping, Shipping Office, Mariane House, Hasing, Kolkata-700 022.

4. The Chairman & Managing Director, Dredging Corporation of India Ltd., Dredge House Port Area, Visakhapatnam-530 035.

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